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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,418	11/10/2003	Christopher Voltz	200303623-4	5178

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EXAMINER

DESIR, JEAN WICEL

ART UNIT	PAPER NUMBER
2614	

DATE MAILED: 10/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/705,418

Applicant(s)

VOLTZ ET AL.

Examiner

Jean W. Désir

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 29-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 29-45 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-16 of U.S. Patent No. 6,670,994.

Claim 29:

Allowance of claim 29 of the instant application would result in an unjustified timewise extension of the monopoly defined by the patented claims 1, 9-12. Because the claimed a video frame, a first buffer, a second buffer, and a field scaler of claim 1 equate to the video frame, first buffer, second buffer, and field scaler of patented claims 1, 9, 10, 11, or 12.

Claims 30-41:

Art Unit: 2614

Allowance of claim 30-41 of the instant application would result in an unjustified timewise extension of the monopoly defined by the patented claims 1-16. Because the additional limitation of claim 30 is disclosed by the patented claim 2 (see patented claim 2 lines 30-32); the additional limitation of claim 31 is disclosed by the patented claim 3 (see patented claim 3 lines 34-35); the additional limitation of claim 32 is disclosed by the patented claim 4 (see patented claim 4 lines 36-40); the additional limitation of claim 33 is disclosed by the patented claim 5 (see patented claim 5 lines 41-44); the additional limitation of claim 34 is disclosed by the patented claim 6 (see patented claim 6 lines 46-48); the additional limitation of claims 35-36 is disclosed by the patented claim 9 (see patented claim 9 col. 14 lines 4-5); the additional limitation of claim 37 is disclosed by the patented claim 10 (see patented claim 10 lines 23-24); the additional limitation of claim 38 is disclosed by the patented claim 11 (see patented claim 11 lines 43-44); the additional limitation of claim 39 is disclosed by the patented claim 16; the additional limitation of claims 40-41 is disclosed by the patented claims 7-8.

Claim 42:

Allowance of claim 42 of the instant application would result in an unjustified timewise extension of the monopoly defined by the patented claim 12. Because the claimed a processor, a video signal processing device, a video frame, a first buffer, a second buffer, and a field scaler of claim 42 equate to the processor, video signal processing device, video frame, first buffer, second buffer, and field scaler of patented claim 12.

Claims 43-45:

Art Unit: 2614

Allowance of claim 43-45 of the instant application would result in an unjustified timewise extension of the monopoly defined by the patented claims 13-15. Because the additional limitation of claims 43-45 is disclosed by the patented claims 13-15.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean W. Désir whose telephone number is (703) 308 9571. The examiner can normally be reached on 5/4/9 - First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on (703) 305 4795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JWD
Sep. 30, 04


MICHAEL H. LEE
PRIMARY EXAMINER